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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/475,614

12/30/1999

Gilbert Wolrich

P7876

6580

76973

7590

11/30/2011

The Law Offices of Christopher K. Gagne
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EXAMINER

ENG, DAVID Y

ART UNIT

PAPER NUMBER

2455

MAIL DATE

DELIVERY MODE

11/30/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/475,614	WOLRICH ET AL.	
	Examiner	Art Unit	
	DAVID ENG	2455	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 61-76 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 61-76 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1-60 have been cancelled. Newly submitted claims 61-76 have been entered. Claims 61-76 are pending with 61 and 69 being independent claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 61-67 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The broadest reasonable interpretation of a claim drawn to a computer readable medium typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer media. Signal is not one of the four statutory categories of invention. It is suggested to replace "machine-readable storage medium" to machine-readable memory" in line 1 of claim 61.

Claim Rejections - 35 USC § 112, 2nd paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 61-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Scope of the claims is not clear. There is no functional relationship between the steps. The operations as recited in claims 61-68 and the method as recited in claims 69-76 do not render any useful result or improvement.

With respect to the last step of independent claims 61 and 69, it is not clear whether the exception is trigger by the executing of the packet (branching) or by an external event (interrupt).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belkin (USP 6,604,125) in view of Bush (USP 6,308,319).

See at least the abstract, columns 1-3, Figure 1, the description of web server 106 and the components thereof, including items 110, 114 and 112, in the specification of Belkins. Belkins teaches:

Claims 61, 69

Computer-readable storage medium storing instructions that when executed result in a processor performing operations comprising:

assigning received packets (packets from network 104) to threads (see the description of thread pool information 114 in Figure 1 and thread pool configuration table in Figure 2) for processing (see the description of interactions between item 110, 114 and 112 in Figure 1), the threads to be executed by microengines (engines 122, 124 ... 126 in Figure 1) in the processor, each respective microengine to employ respective local event signals and global signaling states, the respective local event signals being local to respective threads executed by the respective microengine and being to provide information on whether functions requested by the respective threads have completed, the global signaling states permitting an executing thread signal state to be broadcast to the microengines, the threads executed by the microengines being able to branch based on the global signaling states, the threads executed by the microengines maintain thread capability information and port-to-thread assignments; and

in event of a processing exception concerning a particular received packet, sending the particular received packet to a processor core for further processing by the processor core, functionality of the threads executed by the microengines being determined by microcode loaded via the processor core into the microengines.

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Obviousness

Belkin did not teach whether branch or exception is required during thread execution. Programming technique, such as interrupt, exception or branching is well known in computer art. See at least the title and the abstract in Bush. Bush teaches branching or exception in thread execution. It would have been obvious to a person of ordinary skill in the art to incorporate the well known programming technique as taught by Bush in Belkin for processing branching or exception.

Claims 62, 70

The reason for branching is based on the function of the thread and is not patentably distinct over the applied art.

Claims 63-68 and 71-76

See 112 and 114 in Figure 1 of Belkin. Belkin also teaches various types of threads and engines for providing different services.

Response

Applicants underlined most of claim 61 and state that Belkin fails to teach those underlined limitations. Applicants' invention is a method having two steps, namely, assigning received packets to threads for processing and facilitate branching if needed. The underlined limitations are considered as non-functional descriptive materials because they are not related to assigning packets to threads or branching. Further, there is no argument provided by Applicants as to why those limitations are patentably distinct over the applied references. The court held that simply pointing out what a claim

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requires with no attempt to point out how the claims patentably distinguish over the prior art does not amount to a separate argument for patentability. In re Nielson, 816 F.2d 1567, 2 USPQ 1525 (Fed. Cir. 1987).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise, can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID Y. ENG/
Primary Examiner, Art Unit 2455